

**MIDWIFERY ADVISORY COMMITTEE  
MEETING MINUTES  
JANUARY 20, 2004**

COMMITTEE MEMBERS

PRESENT: Morgan Martin, LM, Chair  
Marijke van Roojen, LM  
Leslie Gesner, LM  
Jennifer Durrie, Public Member

MIDWIFERY PROGRAM

STAFF PRESENT: Paula Meyer, Executive Director  
Kendra Pitzler, Program Manager

OTHER DOH STAFF PRESENT: Michael Johnson, Facility and Services  
Licensing

OTHERS PRESENT: Joe Thoron; Melissa Jonas, LM; Audrey Levine, LM; Gordon Glaas; Gretchen Jones, LM; Barbara Green; Shawna Capp; Dianah Damron; Laura Hamilton, LM; Nancy Spencer, LM; Amanda Feldmann, LM; Carol Gautschi, LM; Joanne Myers-Ciecko; Timia Olsen; Cindra Thompson, LM; Tera Schreiber; Tracy McDaniel, ND, LM; Kelly Meinig; Debra O'Conner; Dan Greenlee; Shaheeda Pierce

OPEN SESSION:

1. **Call to Order**

The meeting was called to order at 9:50 a.m. It was announced that this meeting was being tape-recorded (audio) by Department of Health (DOH) staff.

**Approval of Agenda**

Changes were made to the agenda as follows:

- Under item 2, "Public Input" was moved from the last item to the first item.
- Under item 2, "Discussion of New Committee Members" was added.
- Under item 5, the description was changed to, "Discussion of ongoing items".

**Approval of Minutes - September 2, 2003.**

A typographical error was found on page 7 and it to be corrected. On page 10, fifth bullet down, "Standards around Risk Assessment" was changed to "Standards of Care".

Ms. van Roojen noted that she wished to make sure that items mentioned on the minutes were updated at the next meeting and that they did not get "dropped". She suggested that a section entitled, "Old Business" could be added to the agenda. She asked that fee history, number of examination candidates and number of licensees since last meeting be brought forward as requested in the minutes. It was also noted that the ACOG "Informed Choice/Informed Refusal" should also be brought forward.

Ms. van Roojen noted that the two attachments to the minutes were not included. Ms. Pitzler indicated that she would try to obtain them before the end of the day. Later in the meeting, Ms. Pitzler informed the Committee that the attachments had been typed up by an administrative assistant who called in sick that morning. Ms. Pitzler was not able to access the attachments and will bring them to the next meeting. The Committee decided that they would postpone approval of the minutes until the next meeting so that they could see the attachments.

2. **Midwifery Advisory Committee Meeting Structure**

**Public Input**

**Issue**

DOH Personnel indicated that a new item had been added to the agenda for public input. This was done to allow better facilitation of each subject so that the Committee could stay on track and be more effective. This item should always be at the same time so that it is very predictable and the public knows when comment will be taken.

**Discussion**

Committee members indicated that public input is essential for each item and felt that public input should be allowed for each item. However, the input should be limited to the agenda item being discussed. Adding the public input agenda item to the meeting would allow the public to speak regarding issues not currently on the agenda.

The Committee asked each member of the audience to introduce themselves and to indicate the agenda item in which they had specific interest. Many indicated interest in the rules update. Some indicated interest in all aspects of the meeting.

**Action**

A motion was made to continue to accept public input during agenda items but to also allow a public input at a specific time. The motion was seconded and passed unanimously.

**Discussion Regarding New Advisory Committee Members**

**Issue**

New members appointed to the Midwifery Advisory Committee are Paul Eun and Jane Dimer. Both members are physicians and are obstetricians. These positions fill the vacancy for a physician who is an obstetrician and a physician.

**Discussion**

While the two appointments do meet the letter of the law, Committee members felt that it did not meet the intent of the law. They indicated that appointment of two obstetricians did not give the committee diversity. The Committee also discussed the fact that because some positions had not been filled, positions will most likely be filled all at the same time and that there will be very few committee members (if any) left when new members are appointed.

The Committee also noted the intent of staggering committee end-dates for continuity of the committee. The committee also discussed obtaining the names of the applicants and providing criteria for the Secretary of health (Secretary) to consider when appointing new members.

**Action**

The Committee indicated they would like to take their concerns forward to the Secretary regarding who is appointed to the Committee. They also want to advise the Secretary by giving criteria by which people are selected to serve on the Midwifery Advisory Committee.

The Committee also asked that Morgan Martin be appointed as a pro-tem member for a period of time so that she could orient the new chair to the issues and work of the Committee.

**Advisory Committee Policy**

**Issue**

The Committee members reviewed the Advisory Committee Policy adopted by the Health Professions Quality Assurance Division.

**Discussion**

Members noted that they had not seen this policy before. They indicated that this policy should be at every meeting and should be part of the Committee Member Orientation.

**Action**

Board members requested that the policy on Advisory Committees be brought to every meeting and be part of new board member orientation.

**Agenda/Minutes**

**Item**

Kendra Pitzler indicated that the meeting was being tape-recorded by department staff so that all comments would be on record. She indicated that minutes should be concise. Department staff will present the issue, a brief discussion and actions for all items on the agenda.

**Discussion**

A suggestion was made to have an independent person take the minutes. It was also noted that current minutes are not on the web-site and it was requested that agendas and minutes be put on the web-site. Conversation also focused on executive session and questions raised if there had been an inappropriate executive session in the past. In addition, there was a request to have the agendas and cancellations published in the state register. Some members of the audience indicated that this is a requirement of the Open Public Meetings Act. The Assistant Attorney General, Alice Blado indicated that these are special meetings which do not require publication but that the Department can choose to use the guidance given to regular meetings in the Open Public Meetings Act.

**Meeting Start Time**

**Item**

Ms. Pitzler noted that the start time is 9:30 a.m. and that it is expected that all members attending be on-site by that time.

### **Discussion**

It was suggested that committee member cell phone and/or pager numbers be given to staff so that staff can contact a member if he or she is late to the meeting. Committee members indicated that there should be an expectation that if a member has two or more unexcused absences from committee meetings, consideration should be given to replacing that member. Members who will be absent or late should contact staff. If there is an effort to participate and the member is unable to do so, then there should be acknowledgement that the member is making an effort to meet their responsibilities.

### **Meeting Facilitation**

#### **Issue**

Facilitation of committee meetings is not defined in the policy or in the Midwifery Law. Facilitation has historically been performed by the Chair of the Committee.

#### **Discussion**

The following was suggested:

- Facilitation should be by collaboration.
- The Chair should facilitate and set the agenda.
- A designee of the Chair should act in the Chair's absence.
- Members of the Advisory Committee should facilitate.
- A decision needs to be made as to when to appoint a new chair.
- Because the current licensed midwife members terms have either expired or are about to expire, Ms. Martin should be appointed as a pro-tem for orienting the Chair. The complete turnover of members is of concern.
- Ms. Gesner may not have served a full term and this will need to be looked at. Can Ms. Gesner's term be extended?

#### **Action**

It was agreed that the Chair would facilitate meetings and a designee of the Chair would facilitate in the Chair's absence.

The Committee proposed that Morgan Martin continue as chair for three meetings to assist the new Chair.

### 3. Midwifery Budget

#### **Issue**

Midwifery Advisory Committee members reviewed the latest budget report. Staff indicated that this report did not include a beginning balance so that there was not an actual "current" balance. It was also noted that, in the past, the projected budget was based on an "estimate" of time from the staff. However, at present, all legal and investigative staff are now on timesheets and the projections are based on actual time from those timesheets. It was noted that the projected deficit has not changed since the Committee's last meeting in September.

#### **Discussion**

Ms. van Roojen questioned the sustainability of the midwifery program based on the proposed budget and fee increase. Given that midwives will be more likely to "drop" their license with a large fee increase, it is also likely that the deficit will continue.

The audience raised the following concerns and questions about the fee increase:

- What are the number of complaints and licensees?
- Where did the projected budget come from?
- If the fees are raised to \$1,250, the program will still be out of compliance.
- What has the Department done with the suggestions from the October 7, 2003 Stakeholder meeting?
- Can HPQA be self-supporting rather than each profession? This would eliminate the disparity of fees.
- The committee asked for a cost-comparison between the Investigations Service Unit (ISU) and Health Services Section 6 investigations. Ms. Pitzler indicated this is possible and will be provided.
- There was also a question regarding why physicians are used as expert witnesses. Alice Blado, AAG explained that a physician expert is used to describe at hearing, "what was happening to the person medically". Some of the midwives explained that physicians are not an expert in normal birth and indicated that the underlying supposition is that midwives are not credible. Ms. van Roojen asked to meet with Ms. Blado to educate her on the midwifery model as compared with the medical model. She indicated that, "no physician can speak to what's happened in the home unless they're there with me." She also indicated that if there is a cost saving opportunity in this, we should look at it.

- It was recommended that the Department not do a full investigation if it is not necessary and it was suggested that a midwife should either "guide" the investigation or complete the investigation.

4. **Open Forum for Public Input**

The public forum for public input was held at 11:30 a.m.  
Issues and concerns were brought up as follows:

- Concerns about the process for Standards of Practice rules and fee increase rules were raised. The audience questioned that no sub-committee work was ever done regarding these rules. Ms. Gesner indicated that there was originally a sub-committee that met twice through conference calls. The sub-committee had talked about the Oregon Midwifery Rules, the Allison Osborne case and Informed Choice/Informed Refusal. Next, the Midwives Association of Washington State produced a consensus document and a public meeting achieved some changes and consensus of this document. After the consensus document was agreed upon, the Midwifery Advisory Committee was informed that this document was an unacceptable solution to the problem and would not do what the Department needed.
- Concern was noted that there was, "conflict between two elements in the room" and a comment was made that this needs to be addressed.
- A statement was made that countries that are ranked ahead of the US utilize primarily midwives in the majority of maternity care.
- A statement was made that the Midwifery Model of Care does not seem to be understood by Department of Health staff.
- A comment was made that the document presented to the Department of Health by the Midwives Association of Washington State was a good process and that this process got midwives on the "same page" and that there still needs to be a way to problem-solve and a way of talking about it.
- Concern was expressed that there is paranoia in a larger context in the national scene. It was noted that physicians in certain states are trying to limit the scope of midwifery.
- Questions were raised regarding the "precedent for defining a laundry list in law" and that a laundry list could lead to restraint of trade and lawsuits.
- Questions were raised regarding the lack of available physician consult for midwives and why the physicians aren't required to consult with midwives.

- It was noted that physicians don't understand how midwives practice safely and that there is no program to address physician concerns. It was also noted that malpractice issues have been uncontrollable.
- A statement was made that the law requires consultation with a physician when there are significant deviations from normal and that significant deviations from normal are further defined in the midwifery professional organization.

5. **Rules Itinerary**

**Legend Drugs and Devices**

Department of Health staff presented an update for this process. It was noted that the Significant Analysis and Small Business Economic Impact Statement have now been received by a contract economist and that the next step is for staff to review this document and make needed changes. A draft time-line shows an approximate adoption date of May 7, 2004.

**Standards of Practice**

**Issue**

Staff had no update regarding the Standards of Practice rules. They have not been worked on since the September, 2003 Midwifery Advisory Committee meeting.

**Discussion**

It was noted that the Midwives Association of Washington State now has a state sanctioned quality assurance program. However, it was also noted that if the Department of Health receives a complaint, the Department is bound by law to act on that complaint even if the complaint has also been sent to the Association.

Concern was raised that the Department may decide to go forward with the document that was presented to the Committee in September, 2003. Staff assured the Committee that this is not going forward. This draft was simply a compilation of what came from the June, 2003 meeting and it was determined in September that this draft was not acceptable. The Department is currently checking what other states are doing, what is being done through the Department of Social and Health Services, Medical Assistance Administration (MAA) Home Birth Reimbursement and contacting the Women/Infant/Children (WIC) program to determine if the midwifery program might be eligible for a government grant. It was noted that MAA has billing guidelines and do not dictate practice.



Discussion also centered on the Department's wish for the standards of practice rules. It was explained that if such rules were adopted, it would diminish the need for experts, as well as making it clear to midwives what conduct is acceptable. The goal is to foster safe practice, as well as reduce costs. Alice Blado, AAG noted that the documents proposed by the Midwives Association of Washington State does not help her review a file and know whether the conduct was acceptable or not. At this time, the cases are costly due to the very individualized reviews.

Concern was again raised about restraint of trade and the survivability of the program. It was again suggested that rule making is only one option and that the Department should look at other options to reduce costs from a different avenue.

Concern was raised regarding how the rule process has been handled. Questions were raised about whether the Secretary of Health has seen the proposed document or any other recommendation made by the Midwifery Advisory Committee. Questions were also raised about who the "Secretary's designee" is.

A concern was also raised that licensed midwives are being treated differently than other professions because their numbers are small and money is low.

#### **Action**

The Committee asked staff to obtain and bring the ACOG Statement regarding Informed Consent, Informed Refusal and Maternal Fetal Patients to the next Midwifery Advisory Committee meeting.

The Committee also decided to write a letter to the Secretary of Health and attach a copy of the Standards of Practice document (and attachments) that the Committee recommended a year and a half ago. This letter will recommend that the December 6, 2002 document be referenced in rule. This letter will be sent directly to the Secretary from the Midwifery Advisory Committee.

Motion was moved seconded and passed unanimously. Ms. van Roojen agreed to draft this letter and bring it to the February meeting for the Committee to review and revise. She will collaborate with Ms. Martin.

6. **Program Manager Report**

**DOH Request Legislation**

The Committee reviewed the draft legislation by the Department of Health. This legislation includes reducing barriers to licensing and changes to the Uniform Disciplinary Act. These changes would include self executing orders when respondents fail to respond (which would save the Department and licensure programs money), and clarification of the Department's ability to request evidence.

**Board Members as Association Officers.**

DOH staff informed the Committee about a policy regarding ethics that the division has currently under review. This document concerns board, commission and committee members who are currently serving as officers and/or board members of professional associations. The Division has had communications with the executive director of the State Ethics Board and they have agreed to review this policy before adoption by the Division.

However, it is understood that the law regarding ethics does not allow the appearance of conflict for state employees. Board members are considered by the Division to be state employees. Since associations do have positions on subjects that are considered by boards, commissions and committees, there is an appearance of "conflict of interest" even if the member believes that he or she can remove themselves from the association's position.

**Medical Abbreviations**

This item was included to inform the members of the Committee that JCAHO has issued a document regarding nine abbreviations that they forbid due to the susceptibility of them being misread and resulting in a medication error.

**Health Professions Quality Assurance (HPQA) Fact Sheet.**

The HPQA fact sheet was shared with the Committee for informational purposes only.

**Other**

- It was noted that consumer groups are not on the interested parties list and a request was made that they be added.
- A question was raised regarding whether a midwife's own practice guidelines would be sufficient to assess a case being reviewed by the Department. The response to this is that the standards must be in rule if the agency expects to hold a midwife to them.

- There was a request that Committee members be able to see an actual complaint file. While some of the members acknowledged that they had reviewed the full investigative file, others indicated that they had not had one sent to them for review and had only reviewed the initial complaints.
- A request was made that the Department supply the Committee and the public in attendance at the next meeting with a list of LM and CNM applicants for the Midwifery Advisory Committee.
- The Committee indicated that the following items should be placed on the agenda for February 10, 2004.
  - \* Draft Letter to Mary Selecky, Secretary of the Department of Health from the Midwifery Advisory Committee
  - \* Update on CR101 for Standards of Practice
  - \* Update on Leslie Gesner's appointment date to the Midwifery Advisory Committee.
  - \* Update on Staggering Positions to facilitate continuity
  - \* Introduction of New Committee Members
  - \* Budget
  - \* Public Forum for non-agenda items (limit time to 5 minutes per person)
  - \* Update on Suggestions made at the October 7 Meeting Department of Health Midwifery Stakeholder's Meeting
  - \* Update on Fee Increase and I-601 Exemption
  - \* Update on Legend Drug Rules
  - \* Midwifery Advisory Committee clarification of Diversity of the Committee Makeup.
  - \* Investigative Costs and Increases
  - \* Documents from the American College of Obstetrics and Gynecology.
  - \* Final Approval of September 2, 2003 Minutes.

**ADJOURNMENT:**

The meeting was adjourned at 4:30 p.m. Minutes prepared by Kendra Pitzler, Program Manager.